

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 32634 of 2007(I)

LAR.87/2002 of SUB COURT, THALASSERY

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PETITIONERS:

1. KARAKKAT PUTHIYAPURAYIL KUNHIPATHUMA,
KARAKKAT HOUSE, MANKADAVU, KUNNUMPRAM, P.O. AROLI.
2. KARAKKAT PUTHIYAPURAYIL BUSHARA,
KARAKKAT HOUSE, MANKADAVU, KUNNUMPRAM, P.O. AROLI.
3. KARAKKAT PUTHIYAPURAYIL SABIRA,
KARAKKAT HOUSE, MANKADAVU, KUNNUMPRAM, P.O. AROLI.
4. KARAKKAT PUTHIYAPURAYIL FAUSIYA,
KARAKKAT HOUSE, MANKADAVU, KUNNUMPRAM, P.O. AROLI.
5. KARAKKAT PUTHIYAPURAYIL JAFFAR,
KARAKKAT HOUSE, MANKADAVU, KUNNUMPRAM, P.O. AROLI.
6. KARAKKAT PUTHIYAPURAYIL MOHAMMED RASHEED
KARAKKAT HOUSE, MANKADAVU, KUNNUMPRAM, P.O. AROLI.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS:

1. SPECIAL TAHSILDAR (LA-NH), KANNUR.
2. THE MANAGING DIRECTOR,
KINFRA, THIRUVANANTHAPURAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 2/11/2007 , THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.32634 of 2007

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Dated this the 2nd day of November, 2007.

JUDGMENT

This Writ Petition is preferred against the award passed by the Land Acquisition Court, i.e., Subordinate Judge, Thalassery in L.A.R.No.87 of 2002. The claimants were absent and there was a prayer to remove it from the list. The court did not grant any time and just disposed of the L.A.R. holding that the reference is answered negatively. The power to restore a land acquisition case under Order 9 Rule 9 of C.P.C. is negatived for the reason that the Land Acquisition Court is expected to apply its mind on the materials available even if the claimants are absent and pass appropriate award. A perusal of the award passed by the Subordinate Judge would reveal that he has not applied his mind at all and passed an order.

2. It is a fit case where inherent power under Article 227 of the Constitution has to be exercised to render justice to the party

and therefore the award passed is set aside and the Land Acquisition Court is directed to restore the case back to file and dispose it of in accordance with law after permitting both parties to adduce evidence in support of their respective contentions. If it is found that the claimants are grossly negligent, the court may consider the question of non-awarding interest during the period of absence of the claimants till the restoration today. Parties are directed to appear before the court below on 3.12.2007.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.